



DEPARTMENT OF COMMUNITY AND ECONOMIC
DEVELOPMENT

M E M O R A N D U M

DATE: September 23, 2010

TO: Don Persson, Council President
Members of the Renton City Council

VIA: Denis Law, Mayor

FROM: Alex Pietsch, Administrator *AP*
Gregg Zimmerman, Public Works Administrator *GZ*
Terry Higashiyama, Community Services Administrator *TH*
Larry Warren, City Attorney *LW*

STAFF CONTACT: Erika Conkling, AICP x 6578

SUBJECT: Shoreline Master Program Follow-up Questions and Answers

At the Council meeting on September 13, 2010, members of the Council asked the Administration to follow up on a series of questions related to the proposed Shoreline Master Program (SMP). Five issues were identified:

- The effect of the SMP on development options in city parks on shorelines, as identified by Councilmember Palmer;
- The effect of the SMP provisions for shoreline stabilization on sedimentation, flooding, and infrastructure on the Cedar River, as identified by Councilmember Corman;
- Shoreline armoring and geotechnical analysis, primarily related to the old Stoneway site, as identified by Mr. Halinen representing AnMarCo;
- Reduction of the minimum setback and buffer for non-water oriented development from 75 ft. to 65 ft., as identified by Mr. Rodabough representing RaMac, Inc.;
- Allow projects with community access the same provisions that allow increased impervious surface coverage within the setback and buffer as projects with public access, as identified by Mr. Rodabough representing RaMac, Inc.

Each of these issues is addressed in a series of short documents following this cover memo. Each of the departments represented here have had the opportunity to review and provide specific language that has been incorporated into this memorandum.

By way of background, staff has reviewed all of the above issues, some of them from the beginning of the SMP update process. At the beginning of the process the City established an interdepartmental team to guide the development of the SMP given its far ranging implications and to ensure that different departmental perspectives were considered. This team worked together to guide and review the SMP and was composed of representatives from the Planning and the Economic Development and

Neighborhoods division of Community and Economic Development, the Parks division of Community Services, and the Surface Water Utility of Public Works. At key review times, information was also exchanged with staff from the Renton Airport and the City Attorney's office, and several changes were made to the draft to meet those needs.

Approval of the resolution forwarding the SMP to the state Department of Ecology (DOE) is one of the first steps in the adoption process. Once Council approves the resolution, the SMP will be sent to DOE for review and DOE will hold its own public hearing and comment period on the proposal. DOE review includes evaluation of the submitted SMP and all supporting documentation, as well as all public comments submitted to the City and DOE. Following completion of this review, the SMP will either be accepted or be returned to the City for corrections by DOE. Most communities find their SMPs returned for corrections and then enter a series of negotiations with DOE in order to finalize an SMP that both meets the Shoreline Management Act (SMA), as well as the particular needs of the community. This process may entail minor corrections and clarifications, or it may entail additional public hearings and committee work on behalf of the Council, depending on the results of the state DOE review process. After the review process is complete and DOE approves the document that the SMP will be brought before Council for final adoption. In other communities, DOE review has taken between six months and two years for review. As a result, Council should expect this issue to come back for consideration and final adoption in 2011 or 2012.

A draft committee report is attached for your consideration.

cc: Jay Covington
Chip Vincent
Lys Hornsby
Ron Straka
Leslie Betlach
Suzanne Dale Estey
Kelly Beymer

SHORELINE MASTER PROGRAM COUNCIL ISSUE PAPER

ISSUE: What is the effect of the SMP on maintenance and expansion of City parks within the shorelines?

BACKGROUND: City parks are essential to meeting the standards of the SMA because they fulfill multiple goals of the State Shoreline Management Act, including opportunities for public access and opportunities for water-oriented uses. *Water-oriented uses* include *water-dependent uses* which rely on water location such as swimming, boating, or fishing, as well as *water-related uses* that must be next to water, such as hiking, walking, or picnicking. Even uses that do not necessarily need a location on or next to a shoreline can be considered a *water-enjoyment use* if it is part of a development that incorporates public access.

Due to the importance of parks in fulfilling the goals of the SMA, and due to the importance of parks on the quality of life for Renton residents, Community Services staff were key members of an interdepartmental team that hired the consultants, reviewed the *Inventory and Characterization*, and reviewed policy and regulatory drafts of the SMP prior to and concurrent with Planning Commission review. Multiple changes were made to the supporting documents and to the SMP based on Community Services Department input to ensure the ability for the City to operate, maintain, and expand the City's facilities.

APPROACH TAKEN: Given the direct public benefit as water-oriented recreational uses which provide public access, parks have a slightly different set of regulations than residential or commercial uses. They are subject to the use standards for recreation in proposed RMC 4-3-090E.8, which also allow more over-water coverage (docks and piers) than other types of uses. Water-dependent uses, such as the boat launch are not subject to setback/buffer standards. Other types of water-related uses and the facilities that support them are subject to setback and buffer standards, which could be as low as 50 ft., and allow as much as 25% impervious surface in the buffer area to facilitate public access, the same standard as for private development. Nearly all facilities in Renton's shoreline parks today comply with the standards proposed for adoption in the SMP. For the few structures that could be considered non-conforming under Renton's proposed SMP, they are allowed to be maintained indefinitely without expansion. If expansion is desired, there are multiple options, including expansion of an existing structure according to SMP rules, placing the facility in a location where it could comply with SMP rules, or applying for a variance if needed. However, shoreline improvements, especially those in or over water, are subject to permitting requirements of multiple state and federal agencies. While every attempt was made to make Renton's SMP consistent with other agency requirements, there may be additional requirements that must be met from these agencies, depending on the improvements that are proposed.

CONCLUSION: The SMP encourages and preserves the ability of the City to maintain public parks within the shoreline. SMP rules have been carefully crafted to allow maximum flexibility in parks planning and maintenance, while meeting environmental objectives of the SMA as well as holding the City to the standards that private development must meet. New expansion closer to the water may be limited in a few cases, but staff does not foresee future problems with issues such as adding parking or expanding restrooms in Renton's shoreline parks.

Example Application of SMP Rules to Gene Coulon Memorial Park

	Standard	Impacts to Existing Facilities	Options
Building Setback and Vegetation Buffer	Standard buffer/setback is 100 ft., but part or all of the Park may be eligible for a reduction to 50 ft.	<ul style="list-style-type: none"> Buildings within 50 ft. of the water include the North Picnic Shelter and the restrooms by the swimming beach. Buildings within 100 ft. of the water include Kidd Valley and the picnic area immediately south. 	Buildings within the setback could be completely replaced within the footprint, new facilities for the same purpose could be built behind the required setback, or the buildings could be expanded in the same location if the rules for non-conforming structures are followed in proposed RMC 4-11-095F.1.
Impervious Coverage in the Buffer	Since public access is provided, impervious coverage can be 25% within the required buffer, but no impervious coverage is allowed within 25 ft. of the water.	<ul style="list-style-type: none"> For a 100 ft. buffer, up to 150,000 sq. ft. coverage could be allowed. Currently there is about 70,000 sq. ft. of coverage. For a 50 ft. buffer, up to 75,000 sq. ft. coverage could be allowed. Currently there is about 32,000 sq. ft. Only a few small stretches of trail and an uncovered portion of the North Picnic Shelter are within 25 ft. Paving associated with the boat launch and marina is allowed as a water-dependent use. 	<ul style="list-style-type: none"> Impervious coverage could be added within the buffer of the water in Coulon Park, if desired, under the proposed SMP rules. The existing areas within 25 ft. of the water may be maintained and replaced, but may not be expanded.
Parking	All parking must be located more than 100 ft. from the water.	Approximately 10 existing parking stalls are within 100 ft. of the water.	These parking stalls may be maintained and replaced, but not expanded closer to the shore. New parking could be located anywhere more than 100 ft. from the water.
Docks and Piers- number and extent	Docks and piers associated with the boat launch or marina are water-dependent uses. Other docks and piers are considered recreational uses. Both uses are only limited to the size needed to serve their intended purpose.	None from the Renton SMP, but expansions are subject to other agency requirements, such as US Army Corps of Engineers or US Fish and Wildlife.	N/A.
Docks and Piers- Repair and Replacement	<ul style="list-style-type: none"> Up to 30% of the surface area of a dock or pier may be replaced without triggering special requirements in the Renton SMP. Surface repairs greater than 30% require installation of grating or other light penetrating material. A provision in the SMP would allow the City to negotiate an alternative to these requirements with other permitting agencies, and if they approve it, it would be acceptable under the SMP rules. 	All docks and piers, including for the boat launch or marina, would be subject to these requirements. Even if these requirements were not in place, all docks and piers would be subject to other agency requirements, such as USACE or USFW.	Federal agency requirements are stricter than those proposed in the Renton SMP, but they are also set up to allow alternatives that achieve the same objective. For example, with the recent replacement of the Coulon Fishing Pier, the USACE allowed less grating on the pier in exchange for habitat restoration. Such projects require a lot of collaboration and have high costs.

SHORELINE MASTER PROGRAM COUNCIL ISSUE PAPER

ISSUE: What is the effect of the SMP on sedimentation, flooding, and the safety of infrastructure on the Cedar River?

BACKGROUND: The Washington Administrative Code (WAC) 173-26-221(3) specifically addresses the reduction of flood hazards and stipulates the SMPs may not significantly or cumulatively increase flood hazard or be inconsistent with flood management programs and specifies several principles that should be followed to ensure compliance. The principles highly favor natural shorelines, and the return of shorelines to more natural conditions, which accommodate flood conditions better than structural flood hazard measures. However, structural measures are allowed to prevent flooding when needed to protect existing uses, infrastructure, utilities, and bridges.

Renton's *SMP Inventory and Characterization* documents the existing conditions on all of the jurisdiction's shorelines. This includes a section on flood hazards, as well as a commitment to continue with the flood hazard mitigation plans for the Cedar River, especially dredging plans, over the long term. Two channel migration zones have been identified in Renton Shorelines, one at the eastern edge of the City limits on the Cedar River and one just east of I-405 on May Creek.

Since the beginning of the project, the Public Works Surface Water Utility has been a member of the interdepartmental review team for the SMP. Information from the *Inventory* and from the SMP policies and regulations have been reviewed by and developed in accordance with extensive comments from Utility staff. Bruce Stoker, a licensed Geologist and Engineering Geologist on the Paramterix consultant team has evaluated the provisions of the SMP pertaining to shoreline stabilization structures. Similarly, Renton's SMP and *Inventory* have been reviewed by Chuck Steele, a flood specialist at DOE.

APPROACH TAKEN: Flood hazard provisions consistent with the WAC and Renton's *Inventory* are detailed in proposed RMC 4-3-090F.5. However, flood hazard reduction is an issue of more than just shoreline stabilization and structural support, it also involves placing new development in appropriate locations and when possible, allowing natural conditions to handle flooding in ways that prevent up and down stream effects. These general protections are built into the SMP in development standards such as setbacks and buffers, or impervious surface standards. For Cedar River reach C (the old Stoneway site, the Riviera Apartments, and the City-owned former NARCO property), construction of compensating flood storage is one of the defined ways of restoring the shoreline, in cases where ecological restoration is required.

In the case of shoreline stabilization, there are multiple protections so that off-site impacts, such as the transport of sediments due to erosion that could contribute to downstream flooding are considered. Specifically proposed section RMC 4-3-090F.4 prohibits significant impacts to other properties as a result of shoreline stabilization decisions. A geotechnical report is required as part of the demonstration of need for shoreline stabilization for new development to evaluate impacts to the site, as well as the direct and indirect effects of the proposal off-site, as noted in proposed RMC 4-8-120D.

Renton's Public Works Department does not believe that the application of the proposed SMP provisions pertaining to shoreline stabilization will create an increased risk of sedimentation in the bed of the Cedar River that could contribute to downstream flooding. The design of a bioengineered shoreline stabilization structure must include provisions to withstand flood conditions in the river. Such

structures usually include a solid toe of large rocks or other materials to resist erosion and prevent undermining during flood events, and gradually sloped anchored bioengineered banks that present a wider channel and larger cross sectional area of the river, resulting in reduced water velocity and therefore a commensurate reduction in erosive forces. If adequately designed, bioengineered shoreline stabilization structures should withstand erosive forces that would otherwise cause sediment to be transported to the downstream channel and reduce flow capacity there, contributing to downstream flooding. Moreover, proposed provision RMC 4-3-090F.4.c.iii of the SMP provides that existing shoreline stabilization structures may be retained upon changes in land use if there is a demonstrated need documented by a geotechnical analysis to protect uses or structures from erosion and that a more preferred level of shoreline stabilization is infeasible.

CONCLUSION: SMP policies and regulations preserve the City's ability to respond to flooding and flood hazards. Changes in shoreline stabilization require a geotechnical report, which analyzes off-site impacts, and language in the section on shoreline stabilization prevents the City from approving a shoreline stabilization alternative that would have significant off-site impacts.

SHORELINE MASTER PROGRAM COUNCIL ISSUE PAPER

ISSUE: Should a geotechnical report and review of stabilization alternatives be required as part of the demonstration of need for existing shoreline stabilization (bulkheads)?

BACKGROUND: WAC 173-26-231 covers shoreline modifications, with subsection (3)(a) specifically addressing shoreline stabilization. This WAC states that shoreline modifications may only be allowed for existing uses, to protect primary structures, and when necessary for restoration projects. One subsection of the WAC is devoted to listing the environmental impacts of hard armoring on shorelines. New development, which DOE staff has specifically stated includes changes in land use and subdivisions, should be located and designed to avoid the need for shoreline stabilization to the extent feasible. There is a set of standards for creating new stabilization, and a set of standards for replacing existing stabilization, and a set of standards that apply to all stabilization if it has been deemed necessary. A geotechnical report, which addresses rates of erosion and the potential for structural loss, as well as soft options for stabilization, is required.

APPROACH TAKEN: New stabilization measures are strictly limited, in keeping with the standards from the WAC. Existing bulkheads for existing uses (including single-family homes) may be maintained, repaired, and replaced under the proposed SMP. However, Renton's SMP acknowledges the WAC assertion that hard armoring creates environmental effects on-site, as well as negative cumulative effects for the shoreline as a system. An incentive system allows single-family homeowners the option of permanently reducing their setbacks in exchange for removing, or improving, their bulkheads. When major changes are proposed to existing buildings that do not meet shoreline development standards, the proposed SMP requires properties with bulkheads to evaluate whether or not they can be improved, with the option to mitigate for impacts. These rules allow for property owner choices in managing their bulkheads, and to keep them if necessary, while still meeting the intent of the WAC, which is to limit shoreline stabilization. According to the proposed SMP, the only time an existing bulkhead must be analyzed is when a new use is proposed, consistent with WAC requirements for new development to go through a shoreline needs assessment.

Part of the needs assessment is evaluating the shoreline to determine if shoreline armoring is needed, as well as determining whether or not shoreline protection can be achieved with fewer impacts on the ecological processes and functions of the shoreline. The Shoreline Stabilization Alternatives Hierarchy in proposed RMC 4-3-090F.4.a.iii provides a range of shoreline stabilization alternatives. Eliminating the shoreline stabilization hierarchy undermines the SMPs approach to shoreline stabilization and to achieving no net loss given Renton's existing conditions. The WAC and the *Inventory* both conclude that hard armoring does not create one-time impacts to the environment, rather on-going impacts with cumulative negative effects. The environmental effect of "doing nothing" is continued degradation, making it impossible to achieve no net loss without provisions that result in cumulative improvements over time. Given Renton's existing conditions and built environment, removing bulkheads will be difficult and not possible in many cases. The hierarchy establishes where it is possible to make changes to bulkheads and mitigate for the cumulative impacts they create. DOE has gone on record that it does not expect communities to be returned to pristine conditions, but merely to do the best they can. The hierarchy is the way Renton's SMP does this, as Barbara Nightingale of DOE has made the comment several times that getting rid of the hierarchy undermines Renton's whole SMP.

In evaluating the need for armoring, a geotechnical report is required for two reasons. First, a geotechnical report is the standard report that is called for in the WAC. Second, geotechnical engineers have specialized expertise in strength of soils and foundation and embankment analysis and design, as well as in the evaluation and protection of structures against the erosive force of water. It is therefore essential to require that engineers with this specialized expertise be involved in recommendation by development project applicants to retain, revise, or replace existing shoreline structures. RMC 4-8-120D sets the requirements for geotechnical reports, and includes a set of submittal criteria specifically to address shoreline issues.

CONCLUSION: Geotechnical reports are required by the WAC and it is the appropriate professional standard to evaluate the need for shoreline armoring while ensuring adequate protection for building and other improvements on waterfront sites. Elimination of the provisions that require a needs assessment for new development and eliminates review of the shoreline stabilization hierarchy would undermine Renton's SMP and make it unacceptable to DOE.

SHORELINE MASTER PROGRAM COUNCIL ISSUE PAPER

ISSUE: Should the proposed SMP allow non-water dependent uses to reduce their setbacks and buffers to a minimum 65 ft. (instead of the proposed minimum of 75 ft.)?

BACKGROUND: State shoreline rules require that the City establish a preference for water-oriented uses over non-water-oriented uses (see WAC 173-26-201(2)(d)). Shoreline areas are a limited ecological and economic resource that attract competing uses. *Water-oriented uses* which require a location on or near the water, or that provide public access to the water, are given priority and non-water-oriented uses are limited. In an October 2008 memo to the City, consultants Ben Frerichs and David Sherrard concluded that based on physical conditions and economic demand, the opportunities for *water-dependent uses*, or uses that require a location on the water, are limited on Renton's shorelines. The result of this report is that there is more opportunity for non-water oriented development, but the WAC still requires the City to give priority to water-oriented uses, which includes the few water-dependent uses that may be feasible, as well as *water-related uses* that need to be located near water, and *water-enjoyment uses* that facilitate public access.

APPROACH TAKEN: Renton's proposed SMP establishes a preference for water-oriented uses by providing different standards for water-oriented and non-water-oriented uses. (Most significantly, this is seen in Notes 4 and 5 of the Bulk Standards Table in proposed RMC 4-3-090D.7.a.) There is a standard setback and buffer of 100 ft. for all new development in the shoreline, but there are provisions in the proposed SMP that allow for the standard to be reduced or to be averaged (when a portion of a property has a larger setback/buffer and another portion has a smaller setback/buffer, but the square footage of setback/buffer is the same as the standard). Note 4 allows water-oriented uses to modify their buffers, through reduction or averaging, to a minimum of 50 ft., while Note 5 allows non-water-oriented uses a modification to a minimum of 75 ft. The reduction to 50 ft. is the primary incentive for water-oriented development, which includes the possibility of a mix of commercial uses accessible to the general public in a "riverwalk" development. Additionally, up to 25% of the 50 ft. setback/buffer may be paved to allow for promenades, outdoor seating, etc. Reducing the minimum setback for non-water-oriented development to 65 ft. (a difference of only 15 ft.) reduces the incentive for water-oriented development, and makes it less likely the City will attract this highly desired form of development. In all likelihood, the waterfront site would be developed for non-water-oriented uses. In fact, staff has concerns that a 75 ft. minimum is already too generous, as the economic benefit of the 25 ft. difference may not be sufficient to outweigh the added cost and complications associated with this type of publically accessible development.

CONCLUSION: Reducing the minimum setback/buffer to 65 ft. for non-water oriented uses creates little difference between non-water-oriented uses and water-oriented uses, nullifying any meaningful incentive for water-oriented uses and the City's ability to attract a riverwalk type development.

SHORELINE MASTER PROGRAM COUNCIL ISSUE PAPER

ISSUE: Should the proposed SMP allow projects with “community access” the same provisions that allow increased impervious surface coverage within the setback and buffer that are allowed for projects with “public access?”

BACKGROUND: Public Access is a major goal of the Shoreline Management Act. In RCW 90.58.020, the legislature states that public access is a top priority of the SMA, and is best preserved through the protection of the environment. Recognizing that there are competing uses for the shoreline that do not allow for natural conditions, certain uses are allowed within the shoreline. These *water-oriented* uses require a location on or near the shoreline, or facilitate public access. It is recognized that accommodating these types of uses and public access will be balanced with other goals of the SMA, including protecting the environment.

The importance of public access is expressed in multiple ways throughout the SMA, as well as in the WAC shoreline guidelines, which applies the public access provisions of WAC 173-26-221(4) to all shorelines, unless stated otherwise. Non-water-oriented development is not allowed within the shoreline unless the development provides either ecological restoration or public access, or a combination of the restoration and public access. For residential development the WAC requires public and/or community access consistent with the standards of the SMP. Community access provisions in the WAC only apply to residential uses, and the WAC does not define the term “community access.” Renton’s SMP defines community access as a physical or visual approach to the shoreline available only to authorized users of a development, not the general public. Community access provisions for residential development have been integrated into the proposed SMP.

APPROACH TAKEN: In Note 9, associated with the shoreline development standards table in proposed RMC 4-3-090D.7.a, projects with public access can cover up to 25% of the buffer area with impervious surface, whereas projects that do not include public access can have up to 5% impervious surface coverage for private shoreline access (or a 6 ft. pathway, whichever is greater). Therefore, additional impervious surface in the buffer is directly related to the need to facilitate public access to the shoreline. Extending this provision to community access is not supported by the SMA.

CONCLUSION: Public access and community access are very different approaches to shoreline development. Community access is limited and does not provide a significant benefit to the public. Public access is a major goal of the Shoreline Management Act, making it appropriate to allow additional impervious surface for that purpose.